

DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 17-17

APPLICANT

John R. Sanzi

LOCATION OF PROPERTY INVOLVED

29 Federal Street

Walpole Assessors Map 18, Lot 112; Zoning District GR

APPLICATION

A Special Permit under Section 9.4.A. of the Zoning Bylaw for the proposed expansion of a non-conforming existing single-family dwelling.

On September 20, 2017 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of the Special Permit requested.

The following members were present and voting:

Matthew Zuker, Chairman
Craig W. Hiltz, Clerk
Susanne Murphy, Member
Mary Jane Coffey, Member
Robert Fitzgerald, Associate Member

A motion was made by Susanne Murphy and seconded by Mary Jane Coffey, to grant a Special Permit under Section 9.4.A. of the Zoning Bylaw to allow the proposed expansion of a non-conforming existing single-family dwelling located at 29 Federal Street, Walpole, MA 02081.

The vote was (5-0-0) in favor (Zuker, Hiltz, Murphy, Coffey and Fitzgerald voting); therefore the application for a Special Permit is hereby granted, subject to the following conditions:

CONDITIONS

1. The proposed addition shall be constructed according to the plans submitted at the public hearing held on September 20, 2017, prepared by Glossa Engineering, 46 East Street, East Walpole, MA 02032, dated June 20, 2017.

REASONS FOR DECISION

The Board finds that the proposed expansion of the non-conforming existing single-family dwelling meets the requirements of Section 9.4.A. of the Zoning Bylaw and that the proposed construction of the one (1) story addition to the left of the single-family dwelling will not increase the nonconforming nature of the structure because the current structure is 21.27' from the front lot line and the proposed addition would be 21.70' from the front lot line. The nature of the proposed single-family use will remain unchanged, as well. The Applicant has explained that he would like to remain in his home, and the addition would provide a bathroom, bedroom and screen covered porch to the first story of his home. Based on these factors, the Board finds that the expansion of the existing non-conforming single-family dwelling on the property will not be substantially more detrimental to the neighborhood than the existing structure and use. The proposed construction of a one story addition for the single-family residential dwelling is reasonable and appropriate for the neighborhood.

FURTHER FINDINGS

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2.2.B.(1) of the Zoning Bylaw. Specifically, the Board made the following findings:

- (a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;**

As discussed above, the proposed addition complies with the provisions of Section 9.4.A. of the Zoning Bylaw, thus this criterion is met.

- (b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed addition will not significantly increase vehicular or pedestrian traffic, as the number of occupants in the house will remain unchanged, this requirement is therefore met.

- (c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed expansion of a single family dwelling will not result in a significant increase in the number of residents or visitors that would adversely affect the immediate neighborhood (employees and customers do not apply to this residential site) and this requirement is therefore met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

As stated above, the Board finds that the proposed addition will be constructed 21.70' from the front lot line, whereas the pre-existing non-conforming house is 21.27' from the front lot line. The proposed addition will comply with the dimensional requirements for side yard setback, rear yard setback, maximum building height and height within 25' of side line as noted on the plans submitted at the public hearing held on September 20, 2017, prepared by Glossa Engineering, 46 East Street, East Walpole, MA 02032, dated June 20, 2017. There are no buffer zone requirements associated with this use. Thus the Board finds that this requirement has been met.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that single family residential uses are not known to be dangerous due to fire, explosion, emission of wastes, or other causes. As such, the Board finds that this criterion is met.

- (f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that since the proposed addition is to allow the homeowner to create a bedroom, bathroom and screened porch, the use will not create more substantial noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance so as to adversely affect the immediate neighborhood. As such, the Board finds that this criterion is met.

- (g) Shall not adversely affect the character of the immediate neighborhood; and**

The Board finds that the property in question lies within an existing single-family residential neighborhood and that the proposed structure is reasonable for the neighborhood. It is noted that there was no opposition from the neighborhood and the two abutting properties also have nonconforming front yard setbacks per the plans submitted at the public hearing. Lastly, the design of the proposed addition will stay in character with the existing house and surrounding neighborhood, therefore having no detriment to the neighborhood. The Board therefore finds that this criterion is met.

(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the proposed single family residential structure is appropriate for the GR Zoning District, where single-family residential uses are allowed by right. As such, the Board finds that this criterion is met.

* * * * *

Consistency: This decision is consistent with purpose and intent of the Zoning Bylaw.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

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Said Special Permit is granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided

under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO

SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Craig W. Hntz, Clerk

CH/am

cc: Town Clerk Engineering Planning Board Abutters
Board of Selectmen Building Inspector Conservation Commission Applicant

This decision was made on September 20, 2017 and filed with the Town Clerk on September 28, 2017

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TOWN OF WALPOLE
TOWN CLERK